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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/742,281	12/22/2000	Samir Armando Salamah	839-892	8170

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EXAMINER

CUEVAS, PEDRO J

ART UNIT

PAPER NUMBER

2834

DATE MAILED: 01/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/742,281

Applicant(s)

SALAMAH ET AL.

Examiner

Pedro J. Cuevas

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5. 6) ☐ Other:

DETAILED ACTION

1. This Office Action replaces the previous Non-Final Office Action mailed on January 3, 2002. The new Office Action includes a Double Patenting Rejection in addition to the Prior Art Rejections of the previous action.

Drawings

2. Figures 1-5 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "22" has been used to designate both concentrically arranged coils and electrical insulation layers. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Double Patenting

4. Claims 1, 4, 5, 7-9 and 12 of this application conflict with claim 1, 4, 5, 7-9 and 12 of Application No. 09/742281. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

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5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 1, 4, 5, 7-9 and 12 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4, 5, 7-9 and 12 of copending Application No. 09/742279 in view of *In re Danly*.

It should be emphasized that "apparatus claims must be structurally distinguishable from the prior art." MPEP 2114. In *re Danly*, 263 F. 2d 844, 847, 120 USPQ 528, 531 (CCPA 1959) it was held that apparatus claims must be distinguished from prior art in terms of structure rather than function. In *Hewlett-Packard Co v Bausch & Lomb Inc.*, 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990), the court held that: "Apparatus claims cover what a device is, not what it does." (emphases in original). To emphasize the point further, the court added: "An invention need not operate differently than the prior art to be patentable, but need only be different" (emphases in original). That is, in an apparatus claim, if a prior art structure discloses all of the structural elements in the claim, as well as their relative juxtaposition, then it reads on the claim, regardless of whether or not the function for which the prior art structure was intended is the same as that of the claimed invention.

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-16 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 1,819,860 to G. Belfils.

G. Belfils clearly teaches the construction of a gas cooled dynamoelectric machine comprising:

a rotor having a body portion (1), said rotor having axially extending coils (3) and end turns (5) defining a plurality of end windings extending axially beyond at least one end of said body portion;

and at least one space block (7) located between adjacent said end windings so as to define a cavity therebetween, said space block having first and second sidewall portions engaging said adjacent end windings, an upstream wall, and a downstream wall, said downstream wall of said space block having a non-planar contour for reducing generated wake; wherein:

said downstream wall has an aerodynamic contour (14, 15) to reduce the extent and strength of the generated wake;

said downstream wall is defined as a generally parabolic curve;

said upstream wall is generally planar;

said space block is comprised of a generally rectangular main body portion and a protrusion portion (portion between grooves 14 & 15), said main body portion defining said upstream wall and said sidewall portions, and said protrusion portion defining said downstream wall;

said downstream wall is defined as a generally parabolic curve;

said upstream wall is generally planar;

said protrusion portion is integrally formed with said main body portion.

9. G. Belfils also teaches the construction of a gas cooled dynamoelectric machine comprising:

a rotor having a spindle and a body portion (1);

a rotor winding comprising axially extending coils (3) disposed on said body portion and spaced, concentric end windings (5) extending axially beyond at least one end of said body portion, said end windings and said spindle defining an annular space therebetween;

a plurality of space blocks (7) located between adjacent ones of said end windings thereby to define a plurality of cavities, each bounded by adjacent space blocks and adjacent end windings and open to said annular space; and

each said space block having first and second sidewall portions engaging said adjacent end windings, an upstream wall, and a downstream wall, said downstream wall of at least one of said space blocks having a non-planar contour for reducing generated wake, wherein:

said non-planar downstream wall has an aerodynamic contour (14, 15) to reduce the extent and strength of the generated wake;

said non-planar downstream wall is defined as a generally parabolic curve;

said upstream wall of each said space block is generally planar;

said at least one space block is comprised of a generally rectangular main body portion and a protrusion portion, said main body portion defining said upstream wall and said sidewall portions, and said protrusion portion defining said non-planar downstream wall;

said downstream wall is defined as a generally parabolic curve;

said upstream wall is generally planar;

said protrusion portion is integrally formed with said main body portion.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pedro J. Cuevas whose telephone number is (703) 308-4904. The examiner can normally be reached on M-F from 8:30 - 6:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Néstor R. Ramírez can be reached on (703) 308-1371. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-1341 for regular communications and (703) 305-3432 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

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Pedro J. Cuevas
January 10, 2002


PEDRO J. CUEVAS
AUTHORITY: 35 U.S.C. 101
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